

Rule 3, Ariz. R. Crim. P.

***Terry v. Ohio*: Terry stop distinguished from de facto arrest.....Revised 1/2010**

In *Terry v. Ohio*, the United States Supreme Court held that an officer may stop an individual based on “specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” 392 U.S. 1, 21 (1968). Even though police have reasonable suspicion for an investigative detention, i.e., a *Terry* stop, police may lack probable cause to arrest the suspect. What begins as a valid *Terry* stop may develop into a de facto arrest without probable cause. Under *State v. Blackmore*, 186 Ariz. 630, 633, 925 P.2d 1347, 1350 (1996) and *State v. Solano*, 187 Ariz. 512, 516, 930 P.2d 1315, 1319 (App. 1996), factors to be considered in determining whether a detention exceeds the permissible scope of a *Terry* stop include the physical proximity between the crime scene and the scene of the stop; the amount of time between the crime and the stop; and the duration of the stop. There is no rigid time limitation on *Terry* stops, but they must be no longer than is necessary to effectuate the purpose of the stop. *Id.* In *Solano*, the Court of Appeals found that the police transported the defendant to the crime scene for no purpose other than to allow detectives to question him, so the police exceeded the bounds of a *Terry* stop and made a de facto arrest without probable cause. Thus, the defendant’s statements to police were tainted by the unlawful arrest and were inadmissible. However, the Court found the error to be harmless because other, admissible statements nullified any harm done by the admission of the improper statements.

An officer does not transform a permissible *Terry* stop into an illegal de facto arrest just because the officer draws his weapon during the stop. *In re Roy L.*, 197 Ariz. 441, 445, ¶ 12, 4 P.3d 984, 988 (App. 2000).